

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Eugene Laron Johnson,

Case No. 22-cv-1976 (JWB/DTS)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

Sergeant Marc Magnuson, et al.

Defendants.

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Defendants filed a Motion to Dismiss, Dkt. No. 24, on December 22, 2022. This Court referred Plaintiff Eugene Laron Johnson to the Federal Bar Association's Pro Se Project (FBA PSP) for possible assistance with filing a response to Defendants' motion.

In April 2023, Johnson wrote the Court requesting an extension of time to respond to the motion in light of the FBA PSP referral and Johnson was granted a 90-day extension. See Docket No. 34. The order granting the extension was sent to Johnson by U.S. Mail but was returned to the Court as undeliverable and marked "Released from Custody/No Longer at Facility." Johnson could not be located at any other facility and the MNDoc website showed Johnson being under released supervision as of April 6, 2023. The Court obtained a more current address from the FBA PSP and the order was remailed, but that was also returned and was marked "Unable to Forward."

That deadline has now passed, and Johnson has not filed a response nor updated his address. In fact, Johnson has not been in contact with the Court or the FBA PSP since early April 2023. Accordingly, this Court now recommends that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. See *Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A

district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

### **RECOMMENDATION**

Based upon the foregoing, and on all of the files, records, and proceedings herein, this Court RECOMMENDS THAT:

1. This action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.
2. Defendants' Motion to Dismiss, Dkt. No. 24, be **DENIED** as moot.

Dated: August 3, 2023

s/David T. Schultz  
DAVID T. SCHULTZ  
U.S. Magistrate Judge

### **NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. See Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).